IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

JUDGMENT.

Shiv Shanker Dadhich **vs.** State of Raj. & ors.

S.B. Civil Writ Petition No. 2557/07 under Article 226 of the Constitution of India.

Date of Judgment: July 19, 2007.

PRESENT
HON'BLE MR. PRAKASH TATIA,J.

Mr. P.P. Chaudhary for the petitioner.
Mr. P.S. Bhati for the applicants.
Mrs. R.R. Kanwar,Addl. GA.

BY THE COURT:

Brief facts of the case are that election of the Members of the Panchayat Samiti, Rashmi were held in first week of February, 2005 and total 15 Members were elected. The petitioner was also elected as Member of the said Panchayat Samiti, Rashmi. The election of Pradhan was held on 10.2.2005 and the petitioner was elected as Pradhan of the Panchayat Samiti, Rashmi. Six Members of the Panchayat Samiti, Rashmi submitted a no confidence motion against the petitioner, upon which meeting was convened for

consideration of no confidence motion by issuing notice dated 17.2.2007.The petitioner being aggrieved against the said decision, challenged the notice dated 17.2.2007 by preferring S.B.Civil Writ Petition No. 987/07. During pendency of the said writ petition, no confidence motion was carried against the petitioner vide resolution dated 24.2.2007. However, subsequent to that, this writ petition no.987/2007 was allowed by this Court vide judgment dated 10.4.2007 whereby the notice Annx.P/4 dated 17.2.2007 was quashed and resultantly the proceedings of the meeting held in pursuance of the notice Annx.P/4 was declared as nonest. The petitioner thereafter submitted a representation to the Zila Parishad on 11.4.2007 that as per law, the meeting for consideration of motion of no confidence against the petitioner could not be convened at least for a period of one year as per the provisions of the Act of 1994. According to the petitioner, since this Court in petitioner's writ petition no.987/07 notice convening the meeting for consideration of no confidence motion alone was quashed, therefore, the motion of no

confidence submitted by the Members of the Panchayat Samiti dated 17.2.2007 remained undecided. According to the petitioner, therefore, during currency of the motion of no confidence dated 17.2.2007, no confidence motion could have been moved and considered. Despite this fact, another no confidence motion has been submitted against the petitioner before the Addl. Chief Executive Officer on 25.4.2007. According to the petitioner, along with the notice convening meeting for consideration of no confidence motion, the proposed motion was not annexed and only a charge-sheet has been annexed along with the said notice. According to the petitioner, the Addl. Chief Executive Officer could not have exercised power of the Chief Executive Officer who alone could have issued notice convening meeting for consideration of no confidence motion. It is also submitted that when there was earlier moved no confidence motion pending in view of the fact that only notice convening meeting was quashed by this Court and the no confidence motion itself has not been quashed and set aside by this Court then no second motion

could have been moved by the Members of the Panchayat Samiti. It is also submitted that in view of the fact that proposed motion has not been provided and annexed with the notice, therefore, the Addl. Chief Executive Officer or even the Chief Executive Officer had no jurisdiction to issue notice convening meeting for consideration of no confidence motion against the petitioner because of the reason for want of reasons for no confidence, the petitioner could not have persuaded the Members in discussion on no confidence motion to vote against the motion. It will be relevant to mention here that the no confidence motion was carried in Panchayat Samiti's meeting on 5.5.2007.

The reply has been filed by the respondents contesting the allegations levelled by the petitioner.

I considered the submissions of the learned counsel for the petitioner and perused the record.

So far as jurisdiction of Addl. Chief Executive Officer in issuing notice of no confidence motion, the learned counsel for the petitioner frankly admitted that by subsequent

amendment, the powers has also been given to the Addl. Chief Executive Officer of the Zila Parishad. In view of the above admission of the learned counsel for the petitioner, the ground raised by the petitioner that the notice convening meeting was issued by the officer having no jurisdiction is liable to be rejected.

The learned counsel for the petitioner argued that since this Court in petitioner's writ petition no.987/07, the notice convening meeting for consideration of no confidence motion alone was quashed, therefore, no confidence motion submitted by the Members on 17.2.2007 remained pending and during pendency of this no confidence motion, new no confidence motion could not have been considered and the Chief Executive Officer could not have issued notice convening meeting. The argument is devoid of any force because of the reason that it is nowhere provided that there can be only one no confidence motion against the Pradhan of the Panchayat Samiti. Otherwise also the argument is devoid of any force because of the reason that on no confidence

motion, meeting could have been convened within 30 days and, therefore, the tenure of that first no confidence motion came to an end with the expiry of 30 days.

The contention of the petitioner that instead of annexing the proposal for consideration, a charge-sheet has been annexed. This argument is also devoid of any force because of the reason that in Annx.P.10, it is clearly mentioned that the Members have shown their lack of confidence in Chair Person, the petitioner. The word 'charge-sheet' is not decisive factor for deciding the nature of the document Annx.P.10. So far as deliberation which are required to be held for consideration of proposal of no confidence is concerned, it is settled that the proposal need not be reasoned proposal so as to obtain any adjudication on any charge against the person against whom motion of no confidence has been moved by the Members of the body. It is simple that there is expression of Members that they have no faith in the person against whom motion of no confidence has been submitted.

In view of the above reason, I do not find any force in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA),J.

mlt.